

LEGISLATIVE BILL 897

Approved by the Governor April 2, 1974

Introduced by R. Maresh, 32
 AN ACT to amend sections 17-204, 19-605, 32-232, and 32-1001.37, Reissue Revised Statutes of Nebraska, 1943, section 32-522, Revised Statutes Supplement, 1972, and sections 19-3005, 32-4,101, 32-503.01, and 79-428, Revised Statutes Supplement, 1973, relating to elections; to clarify and harmonize provisions with previous legislation; to provide when certain actions shall be taken; to provide for vacancies in office and on the ballot; to provide different election hours for parts of the state; to permit late opening of the polls as prescribed; to provide for the costs of Class III school district elections; to repeal the original sections, and also sections 19-622, 32-445, 32-446, and 32-447, Reissue Revised Statutes of Nebraska, 1943, sections 19-3004 and 32-314, Revised Statutes Supplement, 1972, and section 79-427, Revised Statutes Supplement, 1973; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 17-204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-204. Every trustee, before entering upon the duties of his office, shall take an oath to support the Constitution of the United States, and the Constitution ~~of the State~~ of Nebraska, and faithfully and impartially to discharge the duties of his office. Every board of trustees appointed by the county board shall meet within twenty days, organize, and appoint the officers required by law. All trustees ~~chosen at general elections elected to office~~ shall qualify and meet on the ~~last first~~ Tuesday in ~~April~~ June thereafter, organize, ~~elect a chairman of the board~~ and appoint the officers required by law. ~~the last Tuesday in April shall be the beginning of the municipal year.~~ The board of trustees shall, by ordinance, fix the time and place of holding ~~their~~ its stated meetings and may be convened at any time by the chairman.

Sec. 2. That section 19-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

19-605. Whenever electors of any city, equal in number to twenty per cent of those who voted at the last regular city election, shall file a petition with the city clerk, asking that the question of organizing the city under the plan of government provided in this act, ~~or the question of abandoning this plan of government;~~ be submitted to the electors thereof, said clerk shall at once within one week certify that fact to the council of the city, and the council shall, within thirty days, adopt a resolution to provide for submitting such question at a special election to be held not less than ~~sixty nor more than ninety~~ thirty days after the ~~filing of such petition~~ adoption of the resolution except as provided in this section. Any such election shall be conducted in accordance with the general election laws of the state except as otherwise provided in this act. If such petition is filed not more than one hundred eighty days nor less than seventy days prior to the regular municipal statewide primary or statewide general election, the council shall adopt a resolution to provide for submitting such question at the next such election.

Sec. 3. Whenever electors of any city, equal in number to thirty per cent of those who voted at the last regular city election, shall file a petition with the city clerk, asking that the question of abandoning the plan of government provided by the provisions of Charter 19, article 6, be submitted to the electors thereof, such clerk shall within one week certify that fact to the council of the city, and the council shall, within thirty days, adopt a resolution to provide for submitting such question at the next regular municipal election after adoption of the resolution. When such a petition is filed with the city clerk within a seventy-day period prior to a regular municipal election, the resolution adopted by the city council shall provide for the submission of such question at the second regular municipal election thereafter as provided by law.

Sec. 4. That section 19-3005, Revised Statutes Supplement, 1973, be amended to read as follows:

19-3005. Not less than ~~twenty--days--nor--more than--thirty~~ ten days, prior to any general municipal election held on the first Tuesday of April in each even-numbered year, the municipal clerk shall prepare a notice to be published in a newspaper that is published in or of general circulation in such municipality, but if no newspaper is published in or of general circulation in such municipality, then by posting in each of three public places in the municipality, a notice calling such election. The notice shall be substantially as follows:

Notice is hereby given, that on Tuesday, the day of, 19...., at the usual polling place in each precinct in the city (or village) of, Nebraska, a general election will be held for selecting the following municipal officials:

.....

 (naming all officials to be balloted for), which election will be open at eight a.m. and will continue open until eight p.m., of the same day. Dated this day of, 19....

City (or Village) Clerk of the City
 (or Village) of, Nebraska.

If one or more measures, propositions, or issues are also submitted at the same general municipal election, for approval or rejection by the electors, then such notice shall, after naming the officials to be elected, also contain the following:

and the following measures, propositions, or issues:

.....
 (naming measures, propositions, or issues), will also be submitted for approval or rejection by the electors; and (insert language as to polls being open).

The last-mentioned phraseology shall be inserted in such general election notice immediately before the words which election will be open at eight a.m. and will continue open until eight p.m., of the same day.

If the municipal election is being held in conjunction with the statewide primary, such notice shall be given by the county clerk or election commissioner as provided in Chapter 32.

Sec. 5. In the event of death of any candidate prior to an election, the spouse of the candidate may file a claim with the proper governing body prior to the date of the election and upon approval of the claim by the proper governing body the filing fee shall be refunded.

Sec. 6. That section 32-232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-232. Official ballots shall be used at all elections held under the provisions of sections 32-201 to 32-232, in the general form provided by law. No Ballot shall be handed to any person ~~for the purpose of use~~ at any election until (1) such person shall have announced his name and address to the judges and inspector of election who shall be serving at the polling place in the

election district in which he resides and is entitled to vote, ~~his name and address~~; (2) the officers find that such person has been duly registered as a qualified voter as shown by the election register or otherwise entitled to vote in the district under the provisions of sections 32-221, 32-224 and 32-225, (3) the clerks shall have entered his name upon the ~~poll~~ List of Voters books in consecutive number, ~~of voters~~, and (4) he shall have ~~personally~~ signed his name in the ~~poll~~ List of Voters book ~~opposite thereto~~ number 1 on a line opposite to and corresponding to the same number as that entered by the clerk. Any voter receiving assistance in voting shall declare by word of mouth, to the officials empowered by law to assist him, the name of the candidates and the measures for which he desires to vote, and the officials shall mark his ballot only as he so requests.

Sec. 7. That section 32-4,101, Revised Statutes Supplement, 1973, be amended to read as follows:

32-4,101. Immediately upon the completion of the canvass by the county canvassing board the county clerk or election commissioner shall prepare a copy of the abstract of the votes cast for President, Vice President, United States Senator, Congressman, all state officers, members of the Legislature, members of the State Board of Education, delegates to national conventions in a year in which a president is elected, Regents of the University of Nebraska, Judges of the Supreme Court, district courts and county courts, all directors of public power and irrigation districts and reclamation districts, directors of natural resources districts, members of boards of technical community colleges, and all questions under the Constitution voted upon by the whole people, and all questions submitted under the provisions of section 79-2203, which he shall seal up and endorse Abstract of votes of County; and direct to the Secretary of State, who shall prepare a tabular sheet of the votes cast for such officers and measures and preserve the same with the abstract of votes from the respective counties for the use of the Legislature in making the official canvass as required by the Constitution and for the use of the state canvassing board. The Secretary of State shall after a primary make out and deliver a certificate of nomination pursuant to section 32-534. Within twenty days after a general election the Secretary of State shall make out and deliver a certificate of election to the person or persons declared elected by the state canvassing board. The county clerk or election commissioner shall deliver to the state chairman of each political party, ~~within thirty days after each election~~ upon request, a separate abstract of votes of the various political contests for national and state offices

indicating the total votes received in each precinct by each candidate and measure.

Sec. 8. That section 32-503.01, Revised Statutes Supplement, 1973, be amended to read as follows:

32-503.01. All partisan and nonpartisan candidates for elective offices shall be nominated: (1) By a primary held in accordance with Chapter 32, article 5, or (2) by nomination papers signed and filed as provided by section 32-504. If a candidate for an elective office is the incumbent of another partisan or nonpartisan elective office, the filing of the requisite nomination papers of such incumbent for any other partisan or nonpartisan elective office shall be perfected at least seventy days prior to the date of the primary, notwithstanding sections 32-504 and 32-515. All other candidates shall file for a partisan or nonpartisan elective office at least sixty days prior to the date of the primary. If any person holding an elective office created by act of the Legislature shall be a candidate ~~for and~~ elected to any other elective office, his office to which first elected shall become vacated, and the county attorney shall notify the elected official and the governing board on which he serves of such vacancy.

Sec. 9. That section 32-522, Revised Statutes Supplement, 1972, be amended to read as follows:

32-522. (1) Should a vacancy or vacancies for any office except President and Vice President arise for any cause before elections, such vacancy or vacancies shall be filled by the majority vote of the proper committee of the same political party; Provided, that if such vacancy or vacancies exist for an office serving only a particular district of the state, only those members of the party committee who reside within that district shall participate in selecting the candidate to fill the vacancy or vacancies. The chairman and secretary of such campaign committee shall thereupon make and file with the proper officer; a certificate setting forth the cause of such vacancy, the name of the person so nominated, the office for which he was nominated, the name of the person for which the new nominee is to be substituted, the place of residence of the person so nominated, the street and number of the residence or place of business of the person so nominated if such person resides in a city, and the name of the political party with which the person so nominated affiliates and which such committee represents; Provided, that no vacancy on the ballot shall be deemed to have occurred if a political party at the primary election makes no nomination of a candidate for election to an office.

Should a vacancy or vacancies for Governor or Lieutenant Governor arise for any cause before elections, such vacancy or vacancies shall be filled by the majority vote of the proper committee of the same political party, and the vacancy or vacancies shall be filled for the office being vacated.

(2) The certificate, referred to in subsection (1) of this section, shall be signed by the officers therein referred to with the name and places of their residences, and severally sworn to by them before some officer authorized to administer oaths. If there be no campaign or political committee of such name, then a mass convention of such party shall fill the vacancy, and the chairman and secretary of such convention shall make and file with the proper officers a certificate in form and manner substantially as is required to be filed by the chairman and secretary of the campaign or party committee under the provisions of subsection (1) of this section.

(3) The certificate, made, executed, and sworn to in the manner prescribed under the provisions of subsection (1) or (2) of this section, shall, upon being filed at least sixty days before the election, have the same force and effect as the original certificate of nomination or the nomination statement provided for in section 32-514. The usual filing fee charged to candidates for such offices shall accompany the certificate.

Sec. 10. That section 32-1001.37, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

32-1001.37. All contested primary and general elections for Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, member of the State-Railway Public Service Commission, member of the State Board of Education, and Regent of the University of Nebraska shall be heard and determined by the district court for Lancaster County.

Sec. 11. At all elections in that area of this state lying within the Mountain Standard or Mountain Daylight time zone, the polls shall open at 7 a.m. and close at 7 p.m. of the same day and in that area lying within the Central Standard or Central Daylight time zone, the polls shall be open at 8 a.m. and close at 8 p.m. of the same day.

Upon opening the polls one of the judges of election shall make a proclamation thereof, and at least

thirty minutes before the closing of the polls proclamation shall be made in like manner that the polls will be closed in one half hour.

If the judges and clerks appointed to the election boards shall not attend the polls at the hour of 7 a.m. or 8 a.m., whichever the case may be, or if it shall be necessary for the electors present to appoint judges and clerks or any of them, as prescribed in section 32-407, the polls may be opened at any time before the time for closing the same shall arrive, as the case may require. If at the hour of closing there are any electors desiring to vote who are in the polling place or in a line, and who are qualified to participate therein, and have not been able to do so since appearing at the polling place, the polls shall be kept open reasonably long enough after the hour for closing to allow those present at that hour to vote. No person arriving after the hour of 7 p.m. or 8 p.m., whichever the case may be, shall be entitled to vote because the polls may not actually be closed when he arrives.

The county clerk or election commissioner may authorize precinct election boards to release partial or all returns immediately upon the closing of the polls.

In those counties holding their elections under Mountain Standard or Mountain Daylight time, the election boards shall commence their duties one hour earlier than otherwise provided by law and shall be paid accordingly.

Sec. 12. School district boundaries may comprise all or any part of a precinct or ward in any county or counties and every registered voter of the school district shall be entitled to vote at any school district meeting or school district election if he is properly registered with the county clerk or election commissioner and is domiciled in the precinct or ward where registered and which lies in whole or in part within the boundaries of the school district. The provisions of this section and sections 79-428, 79-429, and 79-430 shall not apply to Class V districts.

Sec. 13. That section 79-428, Revised Statutes Supplement, 1973, be amended to read as follows:

79-428. If any person offering to vote at any school district meeting or election shall be challenged as unqualified by any registered voter in such school district, the chairman presiding at such meeting or a judge at such election shall explain to the person challenged the qualifications of a voter. If such person shall state that he is qualified, and the challenge shall

not be withdrawn, the said chairman or judge shall administer to him an oath, which shall be reduced to writing, in substance as follows: You do solemnly swear (or affirm) that you are a citizen of the United States, that you are ~~eighteen---years---of---age~~ of the constitutionally prescribed age of an elector or upwards, that you reside are domiciled in this precinct or ward, which precinct or ward lies in whole or in part within the boundaries of this school district, and that you are registered to vote in the county this precinct or ward, so help you God. Every person taking such oath and signing his name thereto shall be permitted to vote on all questions proposed at such meeting or election.

Sec. 14. The governing board of each Class III school district shall pay to the county clerk or election commissioner the following charges for conducting the elections of the district: (1) Two hundred dollars for districts having a population of more than one thousand and not more than twenty-five thousand inhabitants, and (2) three hundred fifty dollars for districts having more than twenty-five thousand and not more than fifty thousand inhabitants.

The charges shall be payable to the county clerk or election commissioner conducting the elections immediately after each primary and general election. Each Class III school district shall pay for having its official and sample ballots printed at the time of the statewide primary and statewide general election and shall pay the cost for the publication of the sample ballot appearing in the newspaper. All payments received under this section shall be placed in the county general fund to be used to help defray the cost of elections.

Sec. 15. That original sections 17-204, 19-605, 32-232, and 32-1001.37, Reissue Revised Statutes of Nebraska, 1943, section 32-522, Revised Statutes Supplement, 1972, and sections 19-3005, 32-4,101, 32-503.01, and 79-428, Revised Statutes Supplement, 1973, and also sections 19-622, 32-445, 32-446, and 32-447, Reissue Revised Statutes of Nebraska, 1943, sections 19-3004 and 32-314, Revised Statutes Supplement, 1972, and section 79-427, Revised Statutes Supplement, 1973, are repealed.

Sec. 16. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.